

HOUSE BILL 3302
By Hargrove

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 2, Part 9 and Sections 67-8-417 and 67-8-
418, relative to property of a decedent.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Tennessee Code Annotated, Section 45-2-905 is amended by deleting subsections (b) and (c) and by substituting instead the following:

(b) No lessor shall permit access to any safe deposit box by anyone who is not a co-lessee after the lessor is notified of the death of any person who, at the time of such person's death, had the right or privilege of access thereto, either as lessee or agent, except in accordance with the following:

(1) A lessor shall permit the person named in a court order as executor or administrator of an estate;

(2) If there are one (1) or more lessees who survive the decedent, the lessor may permit such surviving lessee or lessees, including the authorized representative of a surviving corporate or other non-individual lessee, to assume control of the safe deposit box in accordance with the lease or rental contract;

(3) If no executor or administrator has been appointed or qualified, the spouse, a parent, adult sibling, or adult decedents, may be permitted access in order to search for and remove any written instrument purporting to be the last will and testament of the decedent, any writing purporting to be a deed to a burial plot or purporting to give burial instructions, and any writing purporting to be an insurance policy on the life of the decedent, and to deliver the same to any employee of the lessor for mailing or further delivery as specified herein; provided that a record of

any items removed shall be signed by such person or persons and an employee of the lessor and the original or copies of such documents are distributed as provided in subsection (d);

(4) If the decedent was a sole lessee of the safe deposit box, the lessor shall permit no further entry for a period of sixty (60) days following the removal and mailing or delivery of the will in subsection (b)(3) or if no will is included, a period of sixty (60) days following the receipt of notice of the death of the decedent, except that the lessor may earlier deliver the contents to the decedent's executor or administrator or property as otherwise provided by law. If no such executor or administrator has requested of the lessor delivery of the contents within the sixty (60) day period, the lessor may deliver or make available such contents to the surviving spouse or to any next of kin of the decedent; provided the lessor shall make a record of any contents removed by any person other than the executor or administrator. The lessor shall retain a copy of such record and make it available to any court of competent jurisdiction or the Commissioner of Revenue for a period of three (3) years.

(c) A lessor shall have the right to have its employee present at the opening of any safe deposit box by any executor, administrator, or any person other than the lessee, a co-lessee, or the authorized agent of a non-individual lessee and shall be entitled to make and keep such records as it deems necessary or appropriate as provided herein.

(d) Where the contents of a safe deposit box are examined and any of the following documents are removed, the lessor shall:

(1) Mail or deliver any written instrument purporting to be the last will and testament of the decedent to the executor named therein if lessor has an accurate address for the named individual or institution. The lessor shall also mail or deliver a photographic copy of the instrument to the court having jurisdiction of the decedent's estate according to the decedent's domicile, as declared in such instrument. If the purported will of the decedent fails to name a personal representative of the decedent, or in the event the lessor does not have a current address for the personal representative named therein, then the lessor shall mail or deliver the original instrument to the court having jurisdiction of the decedent's estate according to the decedent's domicile as declared in such instrument;

(2) Mail or deliver any writing purporting to be a deed to a burial plot or purporting to give burial instructions to a person permitted access to examine the contents; and

(3) Mail or deliver any writing purporting to be an insurance policy on the life of the decedent to the beneficiary named therein or to a person permitted access to examine the contents.

(e) A lessor shall not be liable to any person for the removal or loss of any contents from a safe deposit box during a period of access by an executor or administrator of a deceased lessee, or by any other person or persons authorized access to open and examine contents, whether the property removed or lost is that of the decedent's estate, a surviving lessee, or any other person, and the lessor is entitled to its expenses in defending against any such claim of liability.

(f) To the extent that there is a conflict between the provisions of this section and Sections 67-8-417 or 67-8-418, the provisions of this section shall control.

Section 2. Tennessee Code Annotated, Section 67-8-417(e), is amended by adding as a new item (5) the following:

(5) The provisions of this subsection shall not apply to delivery of property held by a bank, savings and loan association or savings bank in an account or in a safe deposit box where the financial institution maintains a record of the transfer of the property from the account to the transferee or a record of contents of a safe deposit box pursuant to Tennessee Code Annotated, Title 45, Chapter 2, Part 9.

Section 3. Tennessee Code Annotated, Section 67-8-418(a), is amended (1) by deleting the words "No safe deposit company, trust company, bank, or other person engaged" and by substituting instead the words "No person engaged".

(2) And is further amended by adding a new subsection (e) as follows:

(e) The provisions of this section shall not apply to any bank, savings bank, saving and loan association, or trust company subject to the procedures provided in Tennessee Code Annotated, Title 45, Chapter 2, Part 9.

Section 4. This act shall take effect on July 1, 1998, the public welfare requiring it.